

**AREA PLAN COMMISSION OF TIPPECANOE COUNTY  
MINUTES OF A PUBLIC HEARING**

DATE..... June 16, 2004  
 TIME..... 7:00 P.M.  
 PLACE..... County Office Building  
 20 N. 3<sup>RD</sup> Street  
 Lafayette, IN 47901

**MEMBERS PRESENT**

KD Benson  
 David Williams  
 John Knochel  
 Lynda Phebus  
 Jeff Kessler  
 Gary Schroeder  
 Steve Schreckengast  
 Dr. Carl Griffin  
 Kevin Klinker  
 Mike Smith  
 Vicky Pearl  
 Bob Bowman  
 Steve Egly

**MEMBERS ABSENT**

Mark Hermodson  
 Kathy Vernon

**STAFF PRESENT**

Sallie Fahey  
 Margy Deverall  
 Krista Trout  
 Heather Prough  
 Jay Seeger, Atty.  
 Michelle D'Andrea

The Area Plan Commission of Tippecanoe County Public Hearing was held on the 16<sup>th</sup> day of June 2004, at 7:00 P.M., pursuant to notice given and agenda posted as provided by law.

KD Benson called the meeting to order.

**I. BRIEFING SESSION**

Sallie Fahey informed the Commission that **UZO AMENDMENT #44** needed to be tabled and sent back the Ordinance Committee for further review by the work group and City Engineers. She said that **Z-2179—EAGLE'S NEST CORPORATION (R1 TO R1B)** had been withdrawn by the petitioner and no further action was needed. She mentioned that **Z-2187 – G & L DEVELOPMENT (AW TO R1 & R1A)** has changed the request acreage so that there are more R1 acres and fewer R1A acres and that is the reason for the new agenda. She stated that **S-3461—BARR MINOR SUBDIVISION (MINOR SKETCH)** would have to be continued to the July 21, 2004 Area Plan Commission meeting because staff and petitioners were still waiting for the floodplain determination from DNR.

**II. APPROVAL OF MINUTES**

Jeff Kessler moved to approve the minutes of the May 19, 2004 minutes. Carl Griffin seconded and the motion carried by voice vote.

**III. NEW BUSINESS**

**A. RESOLUTION T-04-03**

Review and approve the FY 2005 Unified Planning Work Program (July 1, 2004 – June 30, 2005)

Jeff Kessler moved to approve **RESOLUTION T-04-03**. Carl Griffin seconded the motion.

KD Benson asked if this was the Resolution previously reviewed by the Budget and Personnel Committee.

Sallie Fahey replied affirmatively. She recapped the history of this Resolution and explained the changes that have been made since the Budget and Personnel Committee last reviewed it. She pointed out the changes made to the Federal Transportation allocations, the Disaster Mitigation Funds and the difference based on salary recommendations. She reviewed the list of goals that the staff hoped to accomplish, including, 2 more neighborhood rezones, the Wabash Township Land Use Plan, the new housing

element of the Comprehensive Plan, working with the County Park Board on their 5 year master plan, working with FEMA to update the flood plain maps, finishing the Architecture for Intelligent Transportation System, the Thoroughfare Plan and the Purdue/West Lafayette Transportation Plan.

Steve Schreckengast asked what 2 neighborhoods were targeted for rezone.

Sallie Fahey explained that there would possibly be 3 neighborhood rezones, including the North 9<sup>th</sup> Street corridor, Monon and St. Lawrence-McAllister neighborhoods. She mentioned that at this time the Hanna Neighborhood is not interested in rezoning.

The Commission voted by ballot 13 yes – 0 no to approve **RESOLUTION T-04-03**.

#### **IV. PUBLIC HEARING**

KD Benson read the meeting procedures.

Jeff Kessler moved that the Comprehensive Plan for Tippecanoe County, the Unified Zoning Ordinance of Tippecanoe County, and the Unified Subdivision Ordinance of Tippecanoe County, Indiana, are hereby entered by reference into the public record of each agenda item. Vicki Pearl seconded and the motion carried by voice vote.

Jeff Kessler moved to continue **S-3461—BARR MINOR SUBDIVISION (MINOR SKETCH)** to the July 21, 2004 Area Plan Commission meeting. Vicki Pearl seconded and the motion carried by voice vote.

Jeff Kessler moved to table **UZO AMENDMENT #44** and send it back to the Ordinance Committee for further review. Vicki Pearl seconded and the motion carried by voice vote

#### **B. REZONING ACTIVITIES**

1. **Z-2178—ROBERT MEISTER (GB TO PDNR):** Petitioner is requesting the rezoning of 4.967 acres for a condominium office park development with six buildings each divided into smaller condominium units and a single lot for development of a stand alone commercial use. The site is located north of CR 350 S between S. 18<sup>th</sup> Street and Concord Road, Wea 9 (NE) 22-4. **CONTINUED FROM THE MAY MEETING BY STAFF'S AND PETITIONER'S REQUEST.**

Jeff Kessler moved to approve the above-described request. Vicki Pearl seconded the motion.

Sallie Fahey presented slides of the zoning map, aerial, and 3 site plans.

Margy Deverall read the staff report with recommendation of approval contingent on the following: Meeting all requirements of UZO 2-27-10 for submission of Final Detailed Plans, signed off by those noted in that section to include:

1. All sheets (other than the preliminary plat) and narrative that make up the approved Preliminary Plan;
2. PD construction plans per UZO Appendix B-2-2;
3. A final plat and declaration of horizontal property regime, per UZO Appendix B-3-2 as applicable;

#### **Restrictive Covenants:**

4. Page 4 – In section 7.3, “Permitted Uses” inclusion of the Administrative Officer in the decision making body allowing other uses not listed but substantially similar;
5. Page 17 - In the section 25, “Amendment of Declaration” inclusion of a statement stating the prohibition of any amendment of the declarations, any change in use or exterior design without prior approval of the Tippecanoe County Area Plan Commission through the planned development process, which includes the possibility of consideration as a minor modification by the Administrative Officer;
6. Exhibit D “Prohibited Uses”, clarify whether the list applies to the entire development including lot 4 or if the list applies only to the condominium buildings on lots 1, 2 & 3.

Paul Coutts, C&S Engineering, 1719 Monon Avenue, Lafayette, IN, explained the intent of this project. He clarified that the minimum size would be 16’ and additional 8’ increments could be added on. He pointed out where the utilities and accesses would be located. He said that this was a very good idea, with a lot of thought put behind it.

Kevin Klinker asked if it was going to be a minimum of 16' with additional 8' increments available.

Paul Coutts replied affirmatively. He stated that any portion of 8' could be purchased, so long as there was a minimum of 16'.

KD Benson asked if they would build out or finish for the owners.

Paul Coutts replied affirmatively.

Kevin Klinker asked for further clarification as to what size each owner could have.

Robert Meister stated that the typical square footage in a unit like this is 1400 to 1500.

Kevin Klinker asked if this development would typically have 7-10 tenants.

Robert Meister stated that typically there would be 5-6 tenants in one building.

Steve Schreckengast asked how parking would be controlled.

Robert Meister stated that the retail uses that would be allowed would not have much traffic. He explained that this was one of the ways to control what kind of businesses went in there. He said that there is never a way to completely control the parking, but he has not had any problems in the past.

Sallie Fahey pointed out that one of the prohibited uses is a restaurant, which has very high parking needs.

Carl Griffin asked how extensive the list for prohibited uses was.

Sallie Fahey read the list of prohibited uses.

The Commission voted by ballot 13 yes – 0 no to recommend approval **Z-2178—ROBERT MEISTER (GB TO PDNR** to the Lafayette City Council.

**2. Z-2182—CORY HOMES, INC. AND COMMUNITY HOMES, INC. (R1B TO NB):**

Petitioners are requesting rezoning of 6.16 acres at the northeast corner of Twyckenham Blvd. and South Ninth Street, Lafayette, Wea 4 (NW) 22-4. CONTINUED FROM THE MAY MEETING BY PETITIONER'S REQUEST.

Jeff Kessler moved to approve the above-described request. Vicki Pearl seconded the motion.

Sallie Fahey presented slides of the zoning map and 2 aerial photos.

Margy Deverall read the staff report with recommendation of approval.

Joseph T. Bumbleburg, PO Box 1535, Lafayette, IN, stated that this site is no longer useful as a residential zone. He said that he and the petitioner have had several meetings with the City Engineer and Traffic Commission regarding the access to this property. He pointed out that the issue of access is more properly handled in the subdivision process. He mentioned that there have been several plans for access proposed and there will be even more, until a workable solution is reached. He stated that some improvements to the intersection have already been made for other businesses, and during this process, hopefully there can be even more improvements that would benefit the City. He said that this area could safely and satisfactorily serve the residents. He stated that the NB zone could provide protection for the area. He reiterated that this area is inappropriate for residential uses. He pointed out that at a previous meeting a declaration of covenants and restrictions was drafted for the adjoining property, which prohibited the use of an adult bookstore. He stated that the petitioner for this case would also be agreeable to signing this declaration.

Charles Vaughn, 909 Bank One Building, Lafayette, IN, stated that he was glad that the petitioner was agreeable to signing the declaration of covenants and restrictions against the use of adult bookstores. He said that he is not against business in this area. He pointed out that the petitioner and adjoining property owner have had 10 years to work out an access plan. He suggested that this petition should be continued until the two property owners can reach a workable solution to the access issue. He used the slide presentation to show where the access and street improvements were needed. He stated that it should not be worked out at a later date, but should be determined now. He requested this case be continued until access can be decided.

Randy Brist, 1016 Brick N Wood Drive, Lafayette, IN, agreed with Charles Vaughn statements. He referred to the section of the staff report, which stated that cooperation between the adjoining property owners was crucial. He stated that it is premature to rezone this area until a definite plan was established. He mentioned that there is no guarantee that the access would be worked out after the rezone.

Joseph T. Bumbleburg stated that the process of developing land is already in place. He explained that the rezone process is first, in order to ensure what it can be used for; and the subdivision process is second in order to establish the ingress, egress and utilities. He pointed out that the staff report states that this property is inappropriate as a residential zone. He mentioned that the petitioner and adjacent property owner were smart enough to work out the access before the subdivision is heard. He stated that the petitioner has spent a lot of time working with the City Engineer and the Traffic Commission on this issue. He mentioned that the City Engineer is not one to drop the ball. He stated that the petitioner and his engineer have been designing some plans that might provide a viable way to allow for ingress, egress, accel and decel lanes.

Kevin Klinker asked how far the cooperation between the property owners had progressed. He mentioned that although the staff report recommends approval, there is evidence that the staff still has reservations.

Joseph T. Bumbleburg pointed out that at this stage in the process, the staff recommendation is only a recommendation. He stated that the rezone and development processes are being blurred together. He mentioned that one plan that is being considered, includes an easement in-between the two properties. He reiterated that the two owners are working on the problem.

Kevin Klinker asked about the status of the piece of property that was condemned.

Joseph T. Bumbleburg stated that the piece of property that was condemned was not included in the drawings or plans.

Kevin Klinker stated that there was a piece of land along the railroad tracks that had been condemned.

Joseph T. Bumbleburg stated that could have been the case, and it would have mostly been subtracted from the adjoining property.

Kevin Klinker stated that although everyone is in agreement this property should be business; there is still concern from council members and residents on the accesses. He mentioned that the last time this area came before the City Council, it was unanimously voted down, and he did not see much difference in the plan.

Michael Smith agreed with Kevin Klinker's comments. He stated that the City Council unanimously rejected the last plan because they wanted the two owners to work together. He pointed out that this plan did not look any different from the plan that was rejected by the council. He stressed that the two property owners needed to work together. He stated that there is usually more detail on where the curb cuts are going to be, and he would like to see more detail before it moves on and the system is trusted. He said that he would like more control in the hands of the elected officials.

Carl Griffin asked if this would be a major or minor subdivision when it came back to the Commission.

Sallie Fahey stated that it would be a minor subdivision if all the lots fronted on a public road. She said that if that is not the case and some lots did not have frontage, but still functioned together, then it would be a major subdivision.

Joseph T. Bumbleburg pointed out that the way this property is shaped, it is unlikely that all lots would be able to have frontage. He stated that it probably would not be a minor.

Sallie Fahey agreed that it most likely would come back as a major subdivision. She stated that if it met all the requirements of the USO, it would be approved. She explained that before the major subdivision came to the Commission, the staff would strongly urge an internal connection. She mentioned that the last proposal that she saw from the Lafayette Traffic Commission, did show an internal easement, although all of the access issues have not been settled. She stated that the recommendation from the Lafayette Traffic Commission would be a part of the staff's review and report.

Steve Schreckengast pointed out that if the Lafayette City Council approved this request, there would be no reason to keep the adjoining property residential. He asked if both properties, as NB zones would be entitled to their own access points.

Sallie Fahey stated that was correct. She stated that the adjoining property already has access via an existing break in the median. She stated that this property could have access onto 9<sup>th</sup> Street, but the question is whether there would be an additional break in the median for full access, or only a right-in, right-out.

Steve Schreckengast asked for confirmation that there could feasibly be an access north of the main drive into Twyckenham Village as well as south of it. He asked if that would be a dangerous situation.

Sallie Fahey stated that was the question that the Traffic Commission was debating.

Steve Schreckengast stated that he agrees this site should be business. He wondered why this petition would be approved by City Council when the other one wasn't. He stated that the ideal situation would be for the two property owners to work together. He asked if the two property owners have tried to get together.

Joseph T. Bumbleburg replied affirmatively.

KD Benson asked if a rezone to NB would force an access point or if it could be pedestrian only.

Sallie Fahey stated that that it would be prudent for any government agency to grant some kind of vehicular access. She said that it is clear that they could have a right-in, right out, but the question was if they could have full access with a median.

KD Benson clarified that that she was asking if the Commission could force the property owners to join together

Steve Schreckengast asked for confirmation that conditions could not be placed on a rezone.

Sallie Fahey replied affirmatively. She stated that if this was proposed as a planned development, then it could include negotiations and conditions.

KD Benson asked for confirmation that it was possible for this to have vehicular access.

Sallie Fahey replied affirmatively.

Michael Smith pointed out that if it is inappropriately zoned residential and won't be used, and the new zone is denied until they work together, then the same goal is accomplished.

KD Benson stated that was up to the legislative body. She pointed out that the purpose of the Plan Commission was to look at and vote on land use.

Joseph T. Bumbleburg stated that when the City of Lafayette took this land, they did not take limited access. He said that unnecessary restrictions, that might limit access and use, might pose a legal problem for the City.

Steve Schreckengast recognized Charles Vaughn.

Charles Vaughn pointed out that the easement that is provided on the most recent plan is right next to the road and would destroy the adjoining property. He stated that if they property owners got together they could come up with a plan that would leave a workable area for both properties. He said that he is not in favor of this property getting a full access, even though it would benefit his own property. He stated that he did not care if this only had a right in right out, because that is what his property has had for many years. He said that if it were full access it would be very dangerous.

Steve Schreckengast stated that he was totally in favor of NB for this property. He mentioned that he also believed that the City Council should do whatever they could to encourage the two property owners to work together.

KD Benson agreed that the property owners should work together. She reminded the Commission that they were supposed to vote on land use only.

Michael Smith stated that this is not a rubber stamp, and the Commission does have the ability to vote no. He said that he was concerned about land use and the land use comes down to access.

Kevin Klinker mentioned that at a neighborhood meeting the petitioner told those present that they were working with the adjoining property owner, and that has not happened.

The Commission voted by ballot 10 yes – 3 no to recommend approval of **Z-2182—CORY HOMES, INC. AND COMMUNITY HOMES, INC. (R1B TO NB** to the Lafayette City Council.

<u>Yes votes</u>	<u>No votes</u>
KD Benson	Lynda Phebus
David Williams	Michael Smith
Steve Schreckengast	Kevin Klinker
Jeff Kessler	
Robert Bowman	
Vicki Pearl	
Gary Schroeder	
Carl Griffin	
Steve Egly	
John Knochel	

3. **Z-2183—ROBERT D. & JUDITH K. GLENN (NB & R1 TO I3):** Petitioners are requesting rezoning of 1.67 acres of land on the southwest corner of SR 25 and CR 775 E to legitimize an existing business located at 7504N CR 775E, in the unincorporated town of Americus, Washington 16 (SE) 24-3.

Jeff Kessler moved to approve the above-described request. Vicki Pearl seconded the motion.

Sallie Fahey presented slides of the zoning map and 2 aerial photos.

Margy Deverall read the staff report with recommendation of denial. She read the following letter into the record:

G. Thomas Pierce, 6508 N 775 E, Lafayette, IN, in opposition.

Joseph T. Bumbleburg stated that the town of Americus is a struggling community and it will only get worse when the Hoosier Heartland is built. He said that this community needs to be anchored by some businesses or it will die. He mentioned that this is a very small site. He pointed out that there is a problem in the UZO because the definition of junkyard is too universal for smaller pieces. He explained that the definition of junkyard does not permit us to look at what is really done on the site. He stressed that this is

not a textbook junkyard because he does not dismantle cars on the site. He stated that the petitioner operates a towing service and garage on this site as a lawful, non-conforming use. He said that the petitioner's business falls into the junkyard category because he works with police agencies towing cars that have been abandoned and holds them until all state procedures are concluded. He pointed out that if a car has to be destroyed, it is not done on this site, but hauled to a proper processing plant. He stressed that the petitioner is only holding the vehicles until the State waiting period is up and then sending them away. He stated if anything in the UZO needs to be reviewed and changed it is the definition of junkyard. He said that the definition needs to be looked at very carefully because it does not regulate a business that is sometimes needed and appropriate. He stated that this salvage business was simply to tow and hold vehicles. He informed the Commission that as soon as the petitioners learned they were in violation, they visited the APC office and tried to correct it. He mentioned that it took the staff some time to figure out all the SIC codes that apply to this business and a rezone was the only option that they could come up with. He reiterated that this is a small site and would not harm anyone. He asked for approval.

Gail Shafer, 1952 Tanglewood Drive, Lafayette, IN, stated that she owned four properties adjacent to the petitioner's lot. She pointed out her properties on the slides. She said that one of her concerns was the water contamination because they use wells. She mentioned that there is no fence at this time. She stated that one of the documents she received stated that her property was 320 feet from the petitioner's property, but that was not accurate because her property was a lot closer than that. She said that she was also concerned about the noise that was already being generated from his property by the air guns. She stated that there is additional traffic on 755 E due to this business. She mentioned that this was a busy intersection in general and could not handle any additional traffic.

KD Benson asked if there was a bufferyard requirement if this were rezoned to I3.

Sallie Fahey replied affirmatively. She said that the bufferyard would depend on how far the open part of the use was set back from the perimeter lot lines. She explained that if any material from the land use was between 100 – 149.9' from a residential zone then it would require a type C bufferyard. She stated that the use also has to be totally and permanently enclosed with a security fence that is at least 6' feet high. She said that it is preferable that the bufferyard be on the neighbor's side of the fence rather than inside the fence.

KD Benson asked if the existing buildings would have to be torn down in order for a bufferyard to be built.

Sallie Fahey replied negatively. She explained that there is an exclusion, which allows an existing dwelling to remain.

Carl Griffin asked Sallie Fahey to point out the unnamed creek on the slides as well as the area where the cars are stored.

Sallie Fahey pointed out the creek on the slides.

Krista Trout explained where the cars are stored.

Al Levy mentioned that the cars go up the side of the property along 775 E.

Carl Griffin asked if the whole area, especially the salvage portion, would have to be enclosed by a 6' fence.

Sallie Fahey replied affirmatively.

Steve Schreckengast asked if the petitioner was entitled to have the auto repair shop, and if the petitioner also lived on the property.

Sallie Fahey replied affirmatively. She explained that the petitioner obtained a rezone for this property in the early 1980s.

Steve Schreckengast asked when the expansion of storing abandon cars began to occur.

Sallie Fahey stated that the staff was unaware of the salvage portion of the business, until they were cited.

Steve Schreckengast asked how long the cars were normally stored on the site.

Joseph T. Bumbleburg stated that the salvage portion just kind of grew when law enforcement needed a hand. He said that the number of cars is usually about 2-3 and the length of time totally depends on the BMV. He stated that cars could be there up to a year, but usually are there for about 30 days.

Kevin Klinker asked how long the Statute said a car had to be stored.

Joseph T. Bumbleburg stated that it had to be stored until it was released by the State.

Steve Schreckengast asked if the only cars that were stored were ones that the police have cited and requested that he pick up. He asked if the petitioner had a contract with the police department. He asked if there were other cars there that were not associated with the police department.

Joseph T. Bumbleburg stated that there was not a written contract between the petitioner and the police. He explained that it was more of a contact.

Steve Schreckengast asked if a citizen wanted to get rid of a car, if they could take it to the petitioner.

Joseph T. Bumbleburg stated that the petitioner replied negatively, and that he only dealt with the police.

Carl Griffin asked if approving this rezone would make the residence non-conforming.

Sallie Fahey stated that the house is already non-conforming.

KD Benson pointed out that there was not a way to make everything perfect in this situation.

Sallie Fahey replied affirmatively.

Jeff Kessler pointed out that the staff report stated that this use has never been allowed in any of the previous zones. He stated that he had to be sensitive to other homeowners. He said that anyone who lives in a residential area would not like it if someone started piling up cars, regardless of the reason. He stated that he could not support this petition, just because it is in Americus.

Michael Smith pointed out that when people write in, it could be longer than 5 minutes and speakers only get 5 minutes.

John Knochel stated that the petitioner does the community a large service with this business. He said that this business employs the petitioner and his son. He stressed that in order to understand where the vehicles are kept, one must really see the property. He pointed out that someone could drive up and down the hill and not see them unless they were really looking for them. He stated that it was hard to tell that it was even a repair shop, much less a salvage yard. He said that if this does not pass, the petitioner would be run out of business. He stated that one of these days Americus would be a ghost town.

The Commission voted by ballot 7 yes – 6 no on **Z-2183—ROBERT D. & JUDITH K. GLENN (NB & R1 TO I3).**

**Yes votes**

KD Benson  
Kevin Klinker  
Steve Schreckengast  
John Knochel  
Robert Bowman  
Vicki Pearl  
Gary Schroeder

**No votes**

Lynda Phebus  
Michael Smith  
Steve Egly  
Carl Griffin  
Jeff Kessler  
David Williams



KD Benson stated that this case would be heard at next month's meeting due to a lack of majority vote.

**4. Z-2185—CINGULAR WIRELESS (AA TO A):** Petitioner is requesting rezoning of a 6400 square foot area located at 7422W CR 350N, Shelby 1 (NE) 23-6  
Jeff Kessler moved to approve the above-described request. Vicki Pearl seconded the motion.

Sallie Fahey presented slides of the zoning map, 2 aerial photos and 5 site plans.

Margy Deverall read the staff report with recommendation of approval.

Todd Thompson, 102 Sunrise Lane, Lizton, IN recapped the selection process of this area. He stated that most wireless carriers prefer to co-locate. He stated that they worked with the owners to select this location since it was not a good area to farm. He pointed out that this site was located on a tract of ground of over 200 acres. He stated that if this were rezoned, they would be seeking a special exception from the BZA.

Kevin Klinker asked if they would sell access to other carriers who wanted to locate on this tower.

Todd Thompson replied affirmatively. He stated that most wireless companies have an agreement to allow co-location. He said that at this time there is another company interested in this tower, but he cannot confirm who at this time.

Robert Bowman asked if clearance from the Purdue Airport was needed for a 250' tower.

Todd Thompson replied affirmatively. He explained that they couldn't install or start construction until full FAA clearance.

The Commission voted by ballot 13 yes – 0 no to recommend approval of **Z-2185—CINGULAR WIRELESS (AA TO A)** to the Tippecanoe County Commissioners.

**5. Z-2186—G & L DEVELOPMENT (PDRS TO GB):** Petitioner is requesting rezoning of a 12.99 acre tract located on the south side of CR 350 S, 1/4 mile west of Concord Road, Wea 10 (SW) 22-4.  
Jeff Kessler moved to approve the above-described request. Vicki Pearl seconded the motion.

Sallie Fahey presented slides of the zoning map and 2 aerial photos.

Margy Deverall read the staff report with recommendation of denial. She read the following letter into the record:

Cedar Run Limited, Tim Shrout, President, 8355 Rockville Road, Indianapolis, IN, in opposition.

Daniel Teder, PO Box 280, Lafayette, IN, pointed out that there have been three requests in the past for GB in this area and the Commission has denied them all, and yet the jurisdictions have approved them. He reviewed the other zones in the area. He stated that this proposal would have no impact on the residential area to the west. He referred to the map in the packet and pointed out the areas that are residential, the areas that are commercial and the areas that are industrial. He commented that the area between 18<sup>th</sup> Street and Concord Road is residential and should stay residential. He stated that there were no objections from other business in the area, both neighborhood and commercial businesses. He commented that this area is being developed at a rapid pace and reviewed the businesses that were going in to this area. He stressed that this is not a Teal Road. He explained that every home and business on Teal Road has a curb cut. He stated that this area is being made up of large areas with single cuts and private roads. He said that CR 350 could handle this development. He asked for approval.

Robert Bowman said that in the 1990s, when CR 350 was being designed, he thought that the plan was for all business to be kept in one area.

Sallie Fahey stated that the unofficial plan was to have commercial nodes at each intersection. She said that the intent was for the 18<sup>th</sup> Street intersection to be NB, the Concord Road intersection to be general community business and everything in-between to be residential.

The Commission voted by ballot 10 yes – 3 no to recommend approval of **Z-2186—G & L DEVELOPMENT (PDRS TO GB)** to the Tippecanoe County Commissioners.

**Yes votes**

KD Benson  
David Williams  
Steve Schreckengast  
Kevin Klinker  
Robert Bowman  
Vicki Pearl  
Gary Schroeder  
Carl Griffin  
Steve Egly  
John Knochel

**No votes**

Lynda Phebus  
Michael Smith  
Jeff Kessler

7. **Z-2187—G & L DEVELOPMENT (AW TO R1 & R1A)**: Petitioner is requesting rezoning of two tracts of land: a 39.04 acre tract for R1 zoning, and a 15.91 acre tract for R1A zoning. The property is located on the east side of Dayton Road, approximately 1/2 mile south of SR 38, Sheffield 9 (S1/2) 22-3.

Jeff Kessler moved to approve the above-described request. Vicki Pearl seconded the motion.

Sallie Fahey presented slides of the zoning map, 2 aerial photos and site plan.

Margy Deverall read the staff report with recommendation of denial. She reviewed the changes in acreage so that there are more R1 acres and fewer R1A acres. She read the following letters into the record:

William and Annette Worley, 282 Conjunction Street, Dayton, IN, in favor.

Brian Keen, 2150 Market Square, Lafayette, IN, in favor.

Ronald Koehler and Cindy Marsh, 749 Shady Lane, Dayton IN, in opposition.

She presented a petition in opposition including 265 signatures.

John Knochel asked if the petition was submitted before the changes to the petition were made

Margy Deverall replied affirmatively.

KD Benson asked how the two different zones would fall on the map.

Sallie Fahey explained that there are now two separate legal descriptions attached to the ordinance.

Daniel Teder apologized to the staff for getting the changes to them so late in the day. He stated that the reason for the changes was because the petitioner thought that Amendment 44 was going to be passed tonight and they did not want anyone to think they were trying to get away with anything. He said that the current request is for 169 lots, which corrected an earlier comment by the staff. He explained that the request is now for 39 acres of R1 with 103 lots and 15 acres of R1A with 66 lots. He passed out two sets of drawings, one showing how the proposal would have looked and the other showing the current proposal. He pointed out that the park, 2 entrances and 3 outlots for drainage were still included. He commented that he believed that water and sewer were available to the site. He mentioned that Dayton does not have any objections to residential in this area, only to R1A. He stated that the lots that are proposed are all 75' wide, an average of 10,439 square feet and a density of 3.07. He said that this is not high density. He pointed out that if this area were all R1 there would be approximately 150 lots verses the 169 that are proposed. He presented a drawing that showed what the area would look like if it were a perfect square. He stated that this proposal provides less density than the Land Use Plan that was adopted by Dayton, which said a density of 3.5 was a reasonable, low density for this area. He pointed out that this proposal was for 3.07, and therefore a lower density. He stated that 19 additional lots would

not affect the traffic on Dayton Road. He mentioned that if and when the time comes to make changes to the road, they would do that. He requested approval.

Michael Smith asked for clarification on the drawings that Daniel Teder presented.

Daniel Teder reviewed the drawings. He reiterated that the changes were made in anticipation of Amendment #44 being passed.

Michael Boas, 740 Shady Lane, Dayton, IN stated that he was a member of the town board. He said all the board wanted was R1. He stated that they would not oppose this if it were all R1. He pointed out that since the lots are within 600 square feet of being R1, they should all just be R1. He stated that they realize that there is going to be growth in this area, and water and sewer does have the capacity to handle it. He pointed out that this is the second time that the petitioner has submitted new plans and changes on the day of the meeting. He stated that the Dayton Town Board and area residents have not had a chance to review the changes. He suggested that this case be continued so that interested parties can review the changes. He pointed out that part of the north section is in the flood plain and unusable anyway.

Margaret Saunder, 3703 Dayton Road, Dayton, IN stated that she is an adjacent property owner. She reminded the Commission that there is a preexisting community south of the town of Dayton on Dayton Road. She mentioned that when talking with these residents there was a lot of opposition to rezoning this area. She said that there is a lot of concern about this rezone setting a precedent for future rezones along Dayton Road. She stated that there is also concern for increased traffic because Dayton Road is very winding and curvy. She said that this kind of development would change the nature of the community. She mentioned that there is a mix of residential and agriculture in this area and some people depend on agriculture to make a living. She asked for denial.

Mike Harris, 6912 State Road 38 East, Dayton, IN stated that he was a member of the Dayton Town Council. He pointed out that the plans for this area are always changing and they never see the same plan twice. He said that if they make the area all R1 then it is over 10,000 square feet per lot and there would be no problem. He commented that the intent was to provide housing around \$125,000 and the petitioner has no right to say how much someone wants to spend on a house. He pointed out that there is already a high density, R1A development to the north. He mentioned some of the problems the existing development has had, including shootings. He pointed out that if someone spends more on a house then it is less likely that it would be a rental. He stated that this development is almost to an R1. He informed the Commission that the majority of the Dayton Town Board has voted not to provide water and sewer unless it is all R1.

Tammy Lineback, 7315 Wesleyan Drive, Dayton, IN, stated that she is aware of two emails that were sent in opposition to this petition which were not read tonight. She said that it was irrelevant whether the signed petition was received before or after the changes to the proposal were made. She explained that the petition stated that everyone who signed was only in favor of an all R1 development. She pointed out that the staff report states that the site plan is non-binding and therefore the petitioner can change it at anytime with very little effort. She stated that the area should be all R1 and binding to 10,000 square feet. She agreed that 19 additional lots would not affect traffic, but also pointed out that if the petitioner can go as low as 169 lots, they should be able to go to 150 lots.

Daniel Teder pointed out that rentals would happen whether the area was R1 or R1A. He mentioned that the Deerfield development, which has about 180 houses, has about 10% rentals. He presented pictures of houses in Deerfield and pointed out that they are all very well maintained. He stated that the proposed development is not high density; utilities are available and will provide Dayton with over \$300,000 of participation fees, which will cause sewer bills to decrease. He explained that this property could not be all R1 at 150 lots, simply because of economics. He stated that if these lots go to the next level, someone would be able to get a similar house at a cheaper price with lower sewer bill in Lafayette. He reiterated that this proposal is in line with the Land Use Plan adopted by Dayton, which says density should be at 3.5 and this proposal is at 3.07. He commented that if this plan was submitted by CP Morgan near Winding Creek, it would work and therefore it should work here.

Kevin Klinker asked what the standing on the sanitary sewer was from the town.

Jay Seeger stated that the town has not yet given a commitment. He explained that two letters have been written; the first stated that sewer would be available and the second said it would not. He said that that is evidence of capacity or capability. He said that whether or not sewer is available would depend on if the town annexes this land.

Kevin Klinker asked if it was possible for the town to withhold sewer until they get what they want.

Robert Bowman stated that at the last Town Board meeting, there was a vote of 3-2 to deny sewer and water until the whole area was R1.

Steve Schreckengast asked for confirmation that if this rezone is approved, it could not be developed until sewer and water were present.

Daniel Teder stated that the Dayton ordinance was not clear. He explained that he understood the ordinance to be similar to the subdivision ordinance where if all requirements are met, it has to be allowed.

Jeff Kessler asked if this rezone would go before the Dayton Town Board.

KD Benson stated that it would go before the County Commissioners because it is outside of the town. She asked Jay Seeger his opinion on this topic. She asked if utilities could be forced.

Jay Seeger stated that he was not specifically familiar with Dayton's ordinances. He said that if the ordinance is written in a technical manner, like Daniel Teder had said, then the developer could force acceptance. He reiterated that he could not really comment on what the ordinance says.

Steve Schreckengast reiterated that this couldn't be developed unless they get utilities.

Jeff Kessler pointed out that the staff was unable to recommend approval because there was not a commitment for water and sewer. He asked if the Commission was also bound to recommend denial.

Jay Seeger stated that the ordinance itself does not require connection to sanitary sewer, but the Comprehensive Plan does. He said that the Indiana statute says that the Commission must give reasonable regard to the Comprehensive Plan. He explained there is not a requirement that the Commission deny this, but they have to give it reasonable regard.

Jeff Kessler asked for confirmation that the Commission could make a recommendation one way or another and then let the County Commissioner make the decision.

KD Benson stated that this proposal does follow the Comprehensive Plan.

Sallie Fahey stated that the zone and density do follow the Comprehensive Plan, but it also says that in the absence of sanitary sewer, the plan is premature.

KD Benson asked for confirmation that subdivisions are approved all the time without a formal commitment.

Sallie Fahey replied affirmatively and explained that in those circumstances there would not be a denial of service.

John Knochel asked if it would be prudent to take the new changes to the Dayton Board so they have an opportunity to look over the improvements.

Daniel Teder reiterated that it is his opinion that water and sewer are available. He stated that the changes that were made were not made to circumvent the Town Board. He explained that they have presented it to the Town Board several times, each time a little lower, and the majority of the Board only

wants R1 and would not consider anything else. He stated that he would be happy to take the plans back out there, but he does not think it would do any good. He said that the sole reason for the changes was because they thought that Amendment #44 was going to pass. He stressed that Gunstra Builders has developed in this community for a long time and they can trust that the development will be built exactly as the proposal says.

John Knochel stated that the concern he had was a development of this size not having a commitment of utilities. He said that he could not support this without that commitment.

Daniel Teder stated that this is a reasonable proposal because of the Land Use Plan. He said that the intent is not to force Dayton to supply utilities.

Carl Griffin asked if there could be 180 lots if the whole area was R1.

Daniel Teder replied negatively. He explained that one of the examples that he presented was showing what the development would look like if it was a perfect square. He reiterated that it was not possible to get 180 lots in an all R1 area, there would only be about 150.

Michael Boas stated that the reason the Town Board voted the way they did was because their constituents want all R1. He said that the Board informed the developers that they only want R1 lots. He pointed out that there were two members of the Town Board that were not present and they should be able to look over the new changes. He asked that this be continued.

Daniel Teder said that it sounded like the County Commissioners that were present, would like to see a continuance, and therefore he agreed to a continuance.

Jeff Kessler moved to continue **Z-2187—G & L DEVELOPMENT (AW TO R1 & R1A)** to the July 21, 2004 Area Plan Commission meeting. Vicki Pearl seconded and the motion carried by voice vote.

KD Benson asked Jay Seeger to obtain and review the Dayton Town Ordinances regarding sewer.

8. **Z-2188—RONALD WHISTLER (R1 TO GB):** Petitioner is requesting rezoning of 46 acres located on the north side of McCarty Lane 1/2 mile east of Creasy Lane, Fairfield 26 (SE) and 25 (SW) 23-4.

Jeff Kessler moved to approve the above-described request. Carl Griffin seconded the motion.

Sallie Fahey presented slides of the zoning map and 2 aerial photos.

Margy Deverall read the staff report with recommendation of approval.

Daniel Teder recapped the petition and reviewed the surrounding properties and their zones. He stated that water and sewer are available to the area. He said that the petitioner was hoping to put a medical office park in this area. He informed the Commission that there have not been any objections from the neighbors. He concurred with the staff report and asked for approval.

Francis Albregts, 3901 E 100 S, Lafayette, IN, stated that he was in favor of this request. He mentioned that the developers approached him a long time ago to discuss this. He said that east of him was industrial and he could not see anything but GB go into this area.

The Commission voted by ballot 13 yes – 0 no to recommend approval of **Z-2188—RONALD WHISTLER (R1 TO GB)** to the Tippecanoe County Commissioners.

## C. SUBDIVISIONS

1. **S-3514—REGAL PARK SUBDIVISION (Major-Preliminary):** Petitioner is seeking primary approval for a 7-lot commercial subdivision on 10.74 acres, located on the north side of CR 350 S, just east of Braddock Drive, in Lafayette, Wea 9 (NE) 22-4.

Jeff Kessler moved to hear and vote on the above-described request. Vicki Pearl seconded the motion.

Sallie Fahey presented slides of the zoning map, 2 aerial photos and preliminary plat.

Margy Deverall stated that the petitioner has requested permission to bond. She read the staff report with recommendation of conditional primary approval contingent on the following conditions:

**CONSTRUCTION PLANS** – The following items shall be part of the Construction Plans application and approval:

1. The Lafayette City Engineer shall approve the street, sanitary sewer, water and drainage plans.
2. An Erosion and Sediment Control Plan meeting the requirements of 327 I.A.C. 15-5 shall be approved by the Tippecanoe County Soil and Water Conservation District.
3. An on-site utility coordinating sheet shall be approved and signed-off by the non-government utility companies. If any of these utilities are being extended from an off-site location, this extension shall be made a part of the utility coordinating sheet.

**FINAL PLAT** – The following items shall be part of the Secondary Application and Final Plat approval:

4. "No Vehicular Access" restrictions shall be platted as shown on the preliminary plat.
5. All existing easements, covenants or restrictions shall be shown and referenced with the corresponding recording information (Document Number and date recorded).
6. All required building setbacks shall be platted.
7. The street addresses and County Auditor's Key Number shall be shown.

**SUBDIVISION COVENANTS** – The following items shall be part of the subdivision covenants:

8. The "No Vehicular Access" restriction shall be made enforceable by the Area Plan Commission and irrevocable by the lot owners.

Daniel Teder stated that the petitioner is requesting permission to bond. He concurred with the staff report and asked for approval

The Commission voted by ballot 13 yes – 0 no to permit bonding for all public improvements.

The Commission voted by ballot 13 yes – 0 no for conditional primary approval of **S-3514—REGAL PARK SUBDIVISION (Major-Preliminary).**

## V. ADMINISTRATIVE MATTERS

Sallie Fahey informed the Commission that there were 40 applicants for the position of Recording Secretary; 2 were outstanding and 10-12 that were reasonably good. She stated that 2 interviews were conducted with the assistance of Margy Deverall and Michelle D'Andrea and a conditional offer has been made to Bianca Bullock, pending commission approval. She informed the Commission that Bianca Bullock was originally from Crawfordsville and a May 2003 graduate of DePauw University in English Literature.

Jeff Kessler moved to hire Bianca Bullock as the recording secretary. Carl Griffin seconded the motion.

Steve Schreckengast asked if there was concern that Bianca Bullock was over qualified and therefore, might find something that more closely utilizes her degree.

Sallie Fahey stated that there is always that possibility. She informed the Commission that there has been major success in the Recording Secretary position, with over qualified candidates. She listed examples of this including, Krista Trout and Heather Prough. She explained that most applicants that are trained as normal secretaries do not have enough training for this position, especially in English skills. She mentioned that in Bianca's interview she stressed that after being a student for so long, she would like to stay in one place for a while and have roots in a community.

The motion carried by voice vote.

## VI. APPROVAL OF THE JULY EXECUTIVE COMMITTEE AGENDA

Jeff Kessler moved that the following subdivision petitions be placed on the July 7, 2004 Executive Committee Agenda at petitioner's request, placement thereon being without reference to compliance or non-compliance with the adopted subdivision ordinance:

**S-3507-THE OAKS SUBDIVISION (MINOR-SKETCH)**

**S-3509-McALISTER SUBDIVISION (MINOR-SKETCH)**

**S-3510-COLLIER SUBDIVISION (MINOR-SKETCH)**  
**S-3520- STANDIFORD MINOR SUBDIVISION (MINOR-SKETCH)**  
**S-3529- TIPPECANOE MALL MINOR SUBDIVISION #5 (MINOR-SKETCH)**  
**S-3531- DONALD C. BROWN MINOR SUBDIVISION (MINOR-SKETCH)**  
**S-3532 – FAMILY VIDEO MINOR SUBDIVISION (MINOR-SKETCH)**  
**S-3533 – HILLTOP MINOR SUBDIVISION (MINOR-SKETCH)**  
**S-3534 – RICKS MINOR SUBDIVISION (MINOR-SKETCH)**

Carl Griffin seconded and the motion carried by voice vote.

#### **VII. DETERMINATION OF VARIANCES – AREA BOARD OF ZONING APPEALS**

Jeff Kessler moved that the following requests for variance from the Unified Zoning Ordinance are not requests for use variance, prohibited from consideration by ordinance and statute.

#### **BZA- 1669 – SHAWN AND STEPHANIE FOSTER**

Carl Griffin seconded and the motion carried by voice vote.

#### **VIII. DIRECTOR'S REPORT**

Sallie Fahey presented a written directors report. She reminded the Commission that the Ordinance Committee meeting has been moved to the third Thursday of the month and would therefore be the next day. She informed the Commission that there will be a Budget and Personnel Committee meeting on Tuesday June 29 at 5 pm. She reviewed the agenda for the Budget and Personnel Committee She highlighted the following topics from the written directors report; Land Use Survey is complete, a Hazard Elimination Grant has been approved for Lafayette at the corner of Earl Ave and State Street; another Hazard Elimination Grant is being worked on for Valley Street and pointed out the information on the new Transportation Bill.

Steve Schreckengast asked what was going to be on the agenda for the Ordinance Committee.

Sallie Fahey stated that there would be an update on the residential zones workgroup, deadline for final detailed plans, selling of family vehicles and a presentation from Jay Seeger on an amendment regarding local ordinances versus Statute.

KD Benson asked if the Land Use Survey could be added to the GIS map.

Sallie Fahey stated that could probably be done in the future. She said that right now there is not the technology to do that. She reviewed the process of conducting the Land Use Survey. She explained the different databases.

KD Benson asked if the Land Use Survey was entered into the database by key number.

Sallie Fahey replied negatively. She stated that it is entered by census block and traffic zone.

#### **IX. CITIZENS' COMMENTS AND GRIEVANCE**

Carl Griffin reiterated Sallie Fahey's earlier comments that the overqualified staff make communication a real pleasure and do an excellent job.

#### **X. ADJOURNMENT**

Jeff Kessler moved for adjournment. Steve Schreckengast seconded and the motion carried by voice vote.

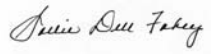
The meeting was adjourned at 9:00 P.M.

Respectfully submitted,



Michelle D'Andrea  
 Recording Secretary

Reviewed by,

A handwritten signature in cursive script, reading "Sallie Dell Fahey".

Sallie Dell Fahey  
Executive Director